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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 KEVIN COE,

11 Petitioner,

12 v.

13 MARK STRONG,

14 Respondent.

CASE NO. C13-6088 RJB-JRC

REPORT AND RECOMMENDATION  
TO DENY IN FORMA PAUPERIS  
STATUS

NOTED FOR:  
JANUARY 24, 2014

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17 The District Court has referred this petition for a writ of habeas corpus to United States  
18 Magistrate Judge J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. §  
19 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4. Petitioner filed the  
20 petition pursuant to 28 U.S.C. § 2254.

21 Petitioner asks that the Court grant him in forma pauperis status and waive the five dollar  
22 filing fee (ECF No. 1). The Court recommends denying petitioner's motion to proceed in forma  
23 pauperis because the financial documents petitioner places before the Court show that he can  
24 afford to pay the five dollar filing fee. Petitioner provides a resident trust fund statement

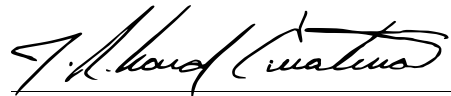
1 showing a stream of deposits and expenditures (ECF No. 1). Petitioner alleges he receives a  
2 monthly stipend of between two hundred and fifty and three hundred dollars per month (ECF No.  
3 1).

4 Petitioner's right to proceed in forma pauperis is not absolute. The Court of Appeals  
5 reviews denials of in forma pauperis status for abuse of discretion. *Denardo v. Collum*, 48 F.3d  
6 1227 (9th Cir. 1995). Further, the Ninth Circuit addressed the denial of in forma pauperis status  
7 over forty years ago and held that proceeding in forma pauperis is a matter within the sound  
8 discretion of the trial court in civil actions. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963).

9 Accordingly, because petitioner has a stream of income, the Court recommends denial of  
10 the motion to proceed in forma pauperis.

11 Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have  
12 fourteen (14) days from service of this Report to file written objections. *See also* Fed. R. Civ. P.  
13 6. Failure to file objections will result in a waiver of those objections for purposes of de novo  
14 review by the district judge. *See* 28 U.S.C. § 636(b)(1)(C). Accommodating the time limit  
15 imposed by Fed. R. Civ. P. 72(b), the clerk is directed to set the matter for consideration on  
16 January 24, 2014 as noted in the caption.

17 Dated this 30<sup>th</sup> day of December, 2013.

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20 J. Richard Creatura  
21 United States Magistrate Judge  
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